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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ADRIAN BARRERA,)
)
Defendant.)

No. CR 08-00787-RMW

STIPULATION AND ORDER TO
PRODUCE REPRESENTATIVE SAMPLE
OF NARCOTICS FOR TESTING BY
DEFENSE EXPERT

IT IS HEREBY STIPULATED and requested by the parties that the Court sign the
attached proposed order regarding the retesting of representative samples of alleged
methamphetamine by the defense expert in this case.

It is so stipulated.

Dated: May 27, 2009

/s/
JEFFREY B. SCHENK
Assistant U.S. Attorney

1 It is so stipulated:

2 Dated: May 27, 2009

MANUEL ARAUJO
Attorney for Mr. Barrera

4 **ORDER**

5 UPON THE DEFENDANT'S REQUEST for an order which requires the Government to
6 produce the following exhibits, to wit:

7 <u>Exhibit Number</u>	<u>DEA Laboratory Number</u>
8 1	7149146
9 2	7149147
10 3	7149148

11 as reported in DEA FORM-7, REPORT OF DRUG PROPERTY COLLECTED, PURCHASED
12 OR SEIZED, having the ATF Case File No. 786065-09-0005, and dated October 27, 2008, for
13 identification and qualitative analysis (calculated as the hydrochloride salt form) of the
14 controlled substance contained therein by a defense expert,

15 AND UPON THIS COURT'S CONSIDERATION of the arguments and pleadings filed,

16 IT IS HEREBY ORDERED and DECREED in accordance with FED. R. CRIM. P.
17 16(a)(1)(E), that the Government shall allow the defense to independently inspect and analyze a
18 representative sample from each of the above-listed drug exhibits; and

19 IT IS FURTHER ORDERED that an Alcohol Tobacco Firearms and Explosives (ATF)
20 Special Agent shall deliver the drug exhibits identified above to Judith Stewart, DEA License
21 No. RF1093778, of Forensic Analytical Sciences, Inc., located at 3777 Depot Road, Suite 403,
22 Hayward, CA 94545, telephone no. 510-266-8100. The ATF Special Agent shall arrange the
23 delivery of said representative samples on or before June 12, 2009 to Judith Stewart of the
24 Forensic Analytical Sciences, Inc. Laboratory; and

25 IT IS FURTHER ORDERED, that upon said delivery of the exhibits identified above to the
26 defense expert, that an ATF Special Agent shall be present when the defense expert inspects,
27 weighs and removes a representative sample of the exhibits identified above for analysis. The
28 representative sample shall be in an amount not to exceed 500 mg or not more than one-half (½)

1 the current reserve weight, if less than 1 gram presently remains as the reserve weight, from each
2 of the above-described exhibits. The weight of each representative sample taken shall be
3 documented and signed by the defense expert and provided to the ATF Special Agent in
4 attendance. Upon the completion of the sample removal and weighing, the defense expert shall,
5 forthwith, return the remaining above-listed exhibits to the ATF Special Agent in attendance;
6 and

7 IT IS FURTHER ORDERED, that the defense expert shall conduct the identification and
8 qualitative analysis (calculated as the hydrochloride salt form) ordered herein, and shall provide
9 the Government with an *Unsworn Declaration Under Penalty of Perjury*, under 28 U.S.C. §
10 1746, executed by the individual who conducted the analyses, or the head of the facility where
11 the analyses occurred, which states the quantity of each exhibit consumed during testing, and
12 either the weight of each exhibit returned to the Government, or a statement that all of the
13 sample was consumed during testing; and

14 IT IS FURTHER ORDERED, that all remaining material of the sample(s), after testing, is to
15 be returned by Judith Stewart to the ATF San Jose Office via registered U.S. Mail, return receipt
16 requested, or approved commercial carrier, with five (5) business days after the completion of
17 analyses; and

18 IT IS FURTHER ORDERED, when applicable and in accordance with FED. R. CRIM. P.
19 16(b)(1)(B), that the defendant shall provide the Government with a copy of the results or report
20 of the physical examinations and scientific tests or experiments which results from the analyses
21 conducted under this Order; and

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1 IT IS FURTHER ORDERED, that Judith Stewart is to safeguard the representative sample(s)
2 received, preserving the chain of custody in a manner to faithfully protect the integrity of each
3 exhibit received.

4 SO ORDERED this 12 day of August 2009.

5 BY THE COURT:

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8 UNITED STATES DISTRICT JUDGE
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